

"The Eurozone Crisis": Introduction by the Authors

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Our book on the Eurozone crisis is built on two central premises; a substantive one and a methodological one. According to the substantive premise the Eurozone crisis has not been merely an economic crisis and a crisis of the European macroeconomic constitution but has had significant consequences in the dimensions of the political and social constitution as well. This substantive premise is linked to our understanding of the European constitution as a multidimensional and multitemporal process of constitutionalisation. The methodological premise concerns the relationship between constitutional and economic analysis. Our objective has not been to complement constitutional with economic analysis but to treat economic analysis as an integral part of constitutional analysis.

Based on these premises, our discussion proceeds through five stages. *First* we summarize the main principles of what we call the Maastricht macroeconomic constitution. These include Europeanization of monetary policy; the independence of the ECB and price stability as the constitutionally anchored objective of monetary policy conducted by an independent expert body; as well as Member State sovereignty in fiscal policy and, as its reverse, Member State fiscal liability, manifest in the no-bailout prohibition.

The Maastricht principles relied on particular economic assumptions the reconstruction of which is the *second* stage of our analysis. As regards monetary policy and the institutional position of the ECB, the assumptions concern, for example, the role of inflation and the major task of central banks in combating it. The post-Keynesian consensus which emerged in the 1980s was an important factor facilitating the establishment of EMU after a long run-up phase. The Maastricht principles gave expression to an optimistic view of the EU approaching an optimal currency area, where completion of the single market would produce the factor mobility necessary for absorbing asymmetric economic shocks and pursuing common monetary policy. In turn, the no-bailout clause manifested a confidence in the disciplining effects of financial markets on Member State finances. Yet, an awareness of the limitations of market discipline also existed, which explains the emphasis put on the monitoring procedures established in Maastricht and further specified by the 1997 Stability and Growth Pact, in particular the excessive deficit procedure. A sovereign debt crisis was not seen as a possibility or, if it was, the assumption was that the prohibition on bailouts would be taken seriously and the Member State at issue would need to resolve the situation, even using default as a last measure. Consequently, no crisis resolution mechanism was included in the Maastricht constitution. In turn, prevention (and resolution) of financial crises was deemed to be primarily a national responsibility, and no Union-level resolution mechanisms were designed to meet them, either.

In the *third* stage, we turn to the economic developments which culminated in the Eurozone crisis. We examine these developments on the basis of the economic assumptions the Maastricht principles implied. Some central assumptions have not met the test of reality. Achieving optimal currency area has proved to be less automatic than the Maastricht optimists expected. The fiscal constraints imposed by the Maastricht Treaty and the Stability and Growth Pact were not able to prevent a sovereign debt crisis in several Member States, while the financial integration of the euro area, as well as the links between banks and sovereigns, made default by a Member State at least politically unacceptable. Invalidation of essential economic assumptions led to the shaking of essential principles of the Maastricht macroeconomic constitution. We show this in the *fourth* stage of our analysis. The financial stability of the euro area as a whole has been elevated into a primary overriding objective of European economic, including monetary, measures. The ECB has been deeply involved in resolving the financial and fiscal crises, which has had repercussions for its independence and led it to interpret its constitutionally defined mandate rather liberally. Yet, perhaps most dramatic are the consequences for Member States' fiscal liability and sovereignty.

The rescue packages and mechanisms, starting with the Greek loan facility in May 2010 and including the launch of the European Stability Mechanism (ESM) in October 2012, signified a retreat from the no-bailout provision and the underlying principle of exclusive Member State fiscal liability. In *Pringle*, the ECJ not only constitutionally sanctioned the rescue packages and mechanisms produced by the experimentalism of the preceding two and a half years; it also confirmed that the macroeconomic constitution has been complemented with and modified by three new elements. First, with regard to Member State fiscal policy, the macroeconomic constitution provides not only for crisis prevention but for crisis management as well. The bailout prohibition is valid only for preventive purposes; in a situation of threatening insolvency of a Member State, bailout measures may be permissible. Secondly, preventive fiscal policy constraints and crisis resolution share the same higher objective of financial stability of the euro area as a whole; this higher objective also justifies divergence from strict compliance with the bailout prohibition. And, thirdly, crisis resolution by means of financial assistance for the purpose of financial stability of the euro area as a whole is only permitted if accompanied by strict conditionality imposed on the recipient state.

Pringle, complemented by the amendment of Art. 136 TFEU confirming Member States' competence to establish a stability mechanism, not only retreated from the principle of Member State responsibility; by elevating conditionality of financial assistance to a constitutional principle these constitutional speech acts also conferred constitutional legitimacy on the curtailment of recipient states' sovereignty in fiscal (and economic) policy. The fiscal sovereignty of the assisting Member States has not been spared from restrictions either. The liabilities related to rescue operations and mechanisms are huge and, if realised, would considerably curb Member States' budgetary autonomy, perhaps even affecting their ability to meet their constitutional fiscal obligations.

The leeway of Member States' fiscal and economic policies has been further reduced by the tightening of general European economic governance; here the catchwords are the six- and two-pack, and the Fiscal Compact. With the monitoring procedures established by Articles 121 and 126 TFEU and further specified by the Stability and Growth Pact, decisive steps have been taken from soft-law instruments to formal sanctions. Introduction of voting based on reversed majorities has strengthened the Commission's position; this, together with formal sanctions, has stripped governance of much of its peer review character. With introduction of the new excessive imbalances procedure, the scope of surveillance has been enlarged from fiscal to general macroeconomic policy. In fiscal policy, monitoring has been extended from Member States' multi-annual planning to both substantive and procedural aspects of annual budgetary processes.

The *fifth*, concluding, stage focuses on the repercussions of the crisis and the mutations of the macroeconomic constitution for the political and social constitutions; in particular, democracy and social rights. Here we discuss the adoption by expert bodies, such as the ECB and the Commission, of stakeholder and political roles, which raises new kinds of accountability and legitimacy concerns; the rise of a new intergovernmentalism; the weakening of the two-stage mechanism of democratic input legitimization; the shaking foundations of the Union as a "Community based on the rule of law"; and the failure of European social rights protection.

